

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. E-2, SUB 1095D
DOCKET NO. E-7, SUB 1100D
DOCKET NO. G-9, SUB 682D

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Third-Party Independent Audits of) THE PUBLIC STAFF'S
Affiliate Transactions Pursuant to) AUDITOR PROPOSAL
Regulatory Condition No. 5.8)

NOW COMES THE PUBLIC STAFF – North Carolina Utilities Commission, by and through its Executive Director, Christopher J. Ayers (the Public Staff), pursuant to Regulatory Condition No. 5.8, hereby proposes Schumaker & Company (Schumaker), as the third-party, independent auditor for the audit of certain affiliate matters involving Duke Energy Carolinas, LLC (DEC), Duke Energy Progress, LLC (DEP), Piedmont Natural Gas Company, Inc. (Piedmont) (collectively, the Companies).

1. Regulatory Condition No. 5.8, as approved in the Commission's *Order Approving Merger Subject to Regulatory Conditions and Code of Conduct* in Dockets Nos.E-2, Sub 1095, E-7, Sub 1100, and G-9, Sub 682 (Merger Order), requires third-party independent audits every two years of the affiliate transactions undertaken pursuant to affiliate agreements. The audits examine the affiliate transactions and Affiliate agreements, including the propriety of the transfer pricing of goods and services between the Companies, other Affiliates, and all other Nonpublic Utility Operations. Regulatory Condition 5.8(a) provides that the first

audit shall begin two years from the date of the close of the merger of Duke Energy Corporation and Piedmont (the Merger). The Merger closed October 3, 2016. Regulatory Condition 5.8(a)(i) further provides that the first audit after the close of the Merger shall include whether DEC's, DEP's and Piedmont's transactions, services, and other Affiliate dealings pursuant to the regulated utility-to regulated utility service agreements and any other utility to utility agreement are consistent with all the conditions related to affiliate dealings and the Code of Conduct and whether DEC, DEP, and Piedmont have operated in accordance with those conditions and Code of Conduct.

2. Subsection (b) of Regulatory Condition 5.8 provides that the Public Staff must propose one or more independent auditors for each audit. The Regulatory Conditions provide that after the Companies and other interested parties have an opportunity to comment and propose additional auditors, the Commission selects an independent auditor. The selected auditor is supervised in its duties by the Public Staff, and the auditor's reports are required to be filed with the Commission.

3. To initiate the process of selecting an auditor, the Public Staff prepared a Request for Proposals (RFP), including a detailed description of the scope of the audit. The description of the scope of the audit is attached. After the Companies had an opportunity to review the RFP, the RFP was sent to fourteen firms. Eight firms acknowledge receipt of the RFP. Two firms submitted proposals in response to the RFP. The Public Staff reviewed the proposals and conducted an interview of its preferred firm on January 7, 2020.

4. Based on a careful review of the submitted proposals, the interview, and the Public Staff's history of supervising similar audits, the Public Staff recommends Schumaker as the third-party auditor to conduct the audit.

5. The Companies have authorized the Public Staff to say that they agree with the recommendation of Schumaker as the auditor.

THEREFORE, the Public Staff respectfully requests that the Commission approve Schumaker as the third-party independent auditor to perform the upcoming independent audit of the Companies' compliance with the relevant regulatory conditions.

Respectfully submitted this the 15th day of January, 2020.

PUBLIC STAFF
Christopher J. Ayers
Executive Director

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Electronically submitted
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CERTIFICATE OF SERVICE

I certify that I have served a copy of the foregoing on all parties of record in accordance with Commission Rule R1-39, by United States mail, postage prepaid, first class; by hand delivery; or by means of facsimile or electronic delivery upon agreement of the receiving party.

This the 15th day of January, 2020.

Electronically submitted
/s/ Heather D. Fennell

SCOPE OF 2019 INDEPENDENT AUDIT OF DUKE ENERGY CAROLINAS, LLC,
DUKE ENERGY PROGRESS, LLC, AND PIEDMONT NATURAL GAS COMPANY, INC.

The Public Staff is seeking proposals from independent consulting firms to conduct an affiliate transactions audit of Duke Energy Carolinas, LLC (DEC), Duke Energy Progress, LLC (DEP), and Piedmont Natural Gas Company, Inc. (Piedmont), pursuant to the following general guidelines and scope.

As part of its 2016 approval of the merger of Duke Energy Corporation, the holding company parent of DEC and DEP, on the one hand, and Piedmont, on the other, the North Carolina Utilities Commission (Commission) approved Regulatory Condition No. 5.8, which requires periodic third-party independent audits to be performed, no less often than every two years, of the affiliate transactions undertaken pursuant to affiliate agreements filed in accordance with Regulatory Condition 5.4.¹ The condition provides that the scope of the audits shall include DEC's, DEP's, and Piedmont's compliance with all conditions approved by the Commission concerning Affiliate transactions, including the propriety of the transfer pricing of goods and services between or among DEC, DEP, Piedmont, other Affiliates, and all of the Nonpublic Utility Operations.

The first audit is to begin two years from the close of the merger, and shall include whether DEC's, DEP's, and Piedmont's transactions, services, and other Affiliate dealings pursuant to the regulated utility-to-regulated utility service agreement and any other utility to utility agreements (collectively, inter-utility agreements) are consistent with all of the conditions related to affiliate dealings and the Code of Conduct, and whether DEC, DEP, and Piedmont have operated in accordance with those conditions and Code of Conduct. More specifically, the audit will include the following with regard to inter-utility agreements:

- (1) Assessing the adequacy of the systems, policies, cost allocation manuals, and other processes adopted by DEC, DEP, and Piedmont to ensure compliance with Regulatory Condition Nos. 3.1, 5.2, 5.3, 5.4, 5.5, 5.6, 5.7, 5.12, 5.24, 13.1(a), 14.1, 14.2, 14.3, and 14.4 and the Code of Conduct.
- (2) Determining whether or not DEC, DEP, and Piedmont are abiding by the requirement to file, pursuant to G.S. 62-153, proposed contracts or agreements memorializing any transactions with Affiliates or proposed Affiliates, and to obtain such determinations and authorizations as may be required under North Carolina law, before engaging in such transactions (Regulatory Condition No. 3.1).

¹ On August 24, 2018, the Commission issued its *Order Granting Motion to Amend Regulatory Conditions* in certain dockets associated with the merger (Docket Nos. E-2, Sub 1095A, E-7, Sub 1100A, and G-9, Sub 682A). References in this document to Regulatory Conditions and Code of Conduct Sections are to the provisions of the documents as approved by and attached to that Order. The Order is available on the Commission's website at the specific address:

<https://starw1.ncuc.net/NCUC/ViewFile.aspx?Id=d859e159-8648-4445-ab89-d830cd24a82a>

The initial Order approving the merger is located here:

<https://starw1.ncuc.net/NCUC/ViewFile.aspx?Id=187c236e-b980-4eb3-ae0b-6c096d18712b>

- (3) Determining whether or not goods and services to and from utility affiliates are being taken and received in accordance with filed service agreements and lists of services (Regulatory Condition No. 5.4 and Code of Conduct Section III.D).
- (4) Determining whether or not DEC, DEP, and Piedmont are in compliance with the pricing for inter-utility goods and services transactions as set forth in Regulatory Condition No. 5.2 and Code of Conduct Section III.D. [excluding Subsections 3(a), 3(b), and 4].
- (5) Determining whether or not DEC, DEP, and Piedmont are currently in compliance with the requirements that, with regard to goods and services taken from or provided to other Utility Affiliates, (a) they have performed “comprehensive non-solicitation based assessments at a functional level of the market competitiveness of the costs for goods and services” they receive from or provide to such Utility Affiliates in a satisfactory manner, (b) they are utilizing such assessments in a satisfactory manner, and (c) they are up to date with regard to the four-year cycle required for such assessments (Regulatory Condition No. 5.2).
- (6) Determining whether or not DEC and DEP are in compliance with the requirements related to the location of core utility functions (Regulatory Condition No. 5.3).
- (7) Determining whether or not the cost allocation factors set forth in the cost allocation manual have been used and reviewing the propriety and reasonableness of each such factor (Regulatory Condition No. 5.5 and Code of Conduct Section III.D).
- (8) Determining whether direct charging has been used to the maximum extent practicable and in compliance with the Regulatory Conditions and Code of Conduct (Regulatory Condition Nos. 5.5, 5.24, and 5.26, and Code of Conduct Section III.D).
- (9) Determining whether or not DEC, DEP, and Piedmont are in compliance with the reporting and review requirements related to affiliated transactions set forth in Regulatory Condition Nos. 5.5(c), 5.7, and 5.12.
- (10) Determining whether or not DEC, DEP, and Piedmont are complying with the requirement that interim changes to the Cost Allocation Manual (CAM) or changes to lists of goods and services, for which the 15-day notice to the Commission is required, are being filed with the Commission in accordance with Regulatory Condition No. 5.6.
- (11) Determining whether or not DEC, DEP, and Piedmont are in compliance with Regulatory Condition Nos. 14.1, 14.2, 14.3, and 14.4 related to ensuring that the structures and processes necessary to fulfill the commitments expressed in the Regulatory Conditions and the Code of Conduct in a timely, consistent, and effective manner have been established and are being maintained.

- (12) Determining whether or not DEC, DEP, and Piedmont are in compliance with Code of Conduct Sections III.A.1 (related to separation), III.A.2 (related to customer information), and III.A.3 (related to confidential systems operation information).
- (13) Determining whether or not the systems, policies and procedures, cost allocation manual(s), and other operations of DEC and DEP in place as of March 31, 2019 adequately reflect the Commission's decisions and the agreements between DEC, DEP, and the Public Staff concerning Recommendation Nos. VI-R3, VI-R4, VII-R1, VII-R2, and VIII-R4, as set forth in the *Order on Audit Recommendations* issued on March 29, 2016, in Docket No. E-7, Sub 986D.
- (14) Verifying through appropriate sampling that all inter-utility affiliate transactions during a period immediately preceding March 31, 2019 were conducted in compliance with applicable requirements and that they are supported by appropriate and adequate documentation; and
- (15) Preparing a report containing findings and conclusions with respect to the foregoing and provide it to the Public Staff-North Carolina Utilities Commission by January 1, 2020, to be finalized and filed with the Commission by February 15, 2020.

Once the Commission has selected the auditor and the auditor has been retained, a comprehensive work plan will need to be developed by the auditor for approval by the Public Staff. In addition, the auditor must be willing, if requested, to testify in any formal proceedings with respect to the subject matter of the audit or to make presentations, if deemed necessary. The costs of any such testimony or presentations should not be included in the estimate of audit fees. Any such costs will be dealt with separately.